[Additional Secretary]

the Lok Sabha, signed by the Secretary-General of the Lok Sabha:

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Brentford Electric (India) Limited (Acquisition and Transfer of Undertakings) Bill, 1987, as passed by Lok Sabha at its sitting held on the 25th August, 1987."

Madam, I lay a copy of the Bill on the Tablt of the House.

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL, 1987.

THE DEPUTY CHAIRMAN: Bill for introduction. The Indian Medical Council (Amendment) Bill, 1987.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM (Tamil Nadu): Madam, on a point of order. I strongly oppose the introduction of the Indian Medical Council (Amendment) Bill, 1987, on the ground that it is not only against the judgement of the Supreme Court, but also against the constitutional rights of the states enjoyed so far. In the name of co-ordinating and determining the standards of medical education and regulating the practice of medicine, the Centre is transgressing into the rights of the States. Under section 19AA(1), the Medical Council is assigned the power to conduct examination for selecting students on an all-India basis. In this context, I would like to remind the House that the judgements of the Supreme Court in various cases have confirmed the selection of candidates to medical courses on the basis of institutional preference and domicile considerations. The classification of qualifications has been accepted by the Supreme Court in the case of Joshi *versus* the State of Madhya Pradesh, Rajendra's case in 1968, Chitra Ghosh's case in 1970, but in Paradeep Jain's case the wholesale reservation was struck down by the Supreme Court. The Medical Council of India seized the opportunity.

Madam, the judgement in Pradeep Jain's case was strongly opposed by most of the States. Now, the Supreme Court has revised its judgement directing the States to select 15 per cent students in respect of undergraduate courses and 25 per cent in respect of postgraduate courses based on the all-India examination. The revised judgement is also being opposed by most of the States. It is now *sub judice*. At the present juncture, the Centre has no right to take away the wholesale reservation by the States. Apart from this, there is no consensus between the Centre and the States in regard to conducting the examination at the national level. Another important thing is that the Bill is silent on the question of percentage of students to be selected in respect of the undergraduate and postgraduate courses. The Bill has been drafted in an arbitrary manner. There is no mention of the percentage. This goes against the judgement of the Supreme Court.

Madam, another Constitutional point is, the State Government are entrusted with the power to provide certain percentage to the backward classes. Accordingly, most of the States made reservation of seats in the professional coures. As far as the Government of Tamil Nadu is concerned, we have fixed 50 per cent. If you take away 15 per cent in respect of undergraduate and 25 per cent in respect of postgraduate courses, the total number of seats available to the backward classes will be adversely reduced. The Constitutional right enjoyed by the backward classes is sought to be taken away by this Bill. Therefore, it is unconstitutional. I would request the hon. Minister to bring the Bill later on with necessary modifications so as to protect the rights of the States...

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): After consulting the States.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM:... and the Claim of the backward classes. There should be consultation with all the States. This is a crucial issue pending since 1984. Consensus between the Centre and the States is more important than the brutal majority in the House.

THE DEPUTY CHAIRMAN: There cannot be debate on this at this stage. (*Interruptions*). First let me say.

It is well established practice both in this House and in the other House that the Chair does not give any ruling on the constitutional validity of any Bill. Whether a Bill is *intra vires* or *Ultra Vires* is for the courts to decide and the Chair does not give a ruling on that. In accordance with the precedents in this regard I overrule the objection.

Other points can be raised during the discussion on the merits of the Bill.

SHRI DIPEN GHOSH (West Bengal): This is a Council of States.

SHRI NIRMAL CHATTERJEE (West Bengal): This is under the Concurrent List. Is it not advisable for the Minister to consult the State Governments? Since this kind of objections are there, it is advisable that instead of introducing, the Bill be circulated to the States for their opinion. I think she can agree to the proposal without introducing the Bill in the House. (*Interruptions*).

THE DEPUTY CHAIRMAN: Let the Minister say something.

SHRI M. S. GURUPADASWAMY: (Karnataka): After hearing all of us, she can say whatever she likes.

SHRI A. G. KULKARNI (Maharashtra): The Deputy Chairman has already given a ruling. The Minister is entitled to move the Bill. You can raise these points during discussion.

श्री अटल बिहारी वाजपेयी (मध्य प्रदेश): मैडम, मेरा ख्याल है अभी तक आपने रूलिंग नहीं दिया है ? हम उसे रूलिंग नहीं मान रहे हैं। आप हमारी बात सुनिए और तब फैसला करिए। ... (**व्यवधान**)

SHRI NIRMAL CHATTERJEE: I have accepted your ruling but raised another point.

उपसभापति : मैं यह बता रही थी जहां कांस्टीट्यूशनल वैलिडिटी का क्वश्चन होता है, चेयर इसमें जो अल्ट्रा-वायरस है या नहीं हैं, इसमें नहीं जा सकती है। लेकिन अगर आपको यह कंस्टीट्यूशन के मुताबिक नहीं है ऐसा अगर कहीं है तो आप दो मिनट में कह दीजिए, क्योंकि इसमें डिबेट नहीं हो सकती है। आपका आब्जक्शन क्या है, दो मिनट में कह दीजिए।

SHRI M. S. GURUPADASWAMY: The Bill has got various controversial provisions as pointed out by my colleague here. Many provisions have been surreptitiously introduced. if I may say so. It is a very controversial Bill. Therefore, my suggestion is, she should not introduce the Bill. She should take the opinion of the State Governments in this regard.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): You are saying it after the ruling. Is it relevant now?

SHRI M. S. GURUPADASWAMY: What is the ruling? (*Interruptions*). Let me complete.

THE DEPUTY CHAIRMAN: You are saying the same thing. (*Interruptions*). I am listening to you. You are going out of the point.

SHRI M. S. GURUPADASWAMY: Let me complete. I think you have got to be patient. I am not on the constitutional issue here. I am not

(Shri M. S. Gurupadaswamy)

on the point on which you gave the ruling. It touches on the powers of the State Governments. The State Governments' opinion in this matter is very important. This is a very controversial Bill and, therefore, I say that she should not introduce the Bill. She should not do that before consulting the State Governments in the matter.

SHRI PARVATHANENI UPENDRA: I also fully endorse what Shri Aladi Aruna has said. Though they have sought the opinion of State Government, they have not consulted or discussed the matter with the representatives of the State Governments. There is no hurry. They can wait for some time and complete the process of consultation with the State Governments.

SHRI MURASOLI MARAN (Tamil Nadu): As Mr. Arunachalam has correctly put it, this Bill is nothing but encroachment on the rights of the State Governments. I think many of the States run by the ruling party will also object to this kind of provision. They are trying to take away the rights, precious rights of the States. Therefore, I suggest that the Bill be placed before the National Development Council for its consideration. Let all the Chief Ministers sit together, let them give consent and then the Bill be introduced in Parliament. *(Interruptions)*.

THE DEPUTY CHAIRMAN: You also want to say.

SHRI LAL K. ADVANI (Madhya Pradesh): I would like to say a word before she answers. In all statutes of this kind which impinge upon the rights of the State Governments, there is a general practice that all-India conference of Health Ministers is always consulted. I am sure, presently also there have been conferences of Health Ministers. Was this particular measure considered there? Was there the endorsement of States taken before introducing it here, because it is principally a question of taking the States into confidence? I am sure they would appreciate.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT AND THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRI P. V. NARASIMHA RAO): We have taken the States into confidence. There was a discussion on effectiveness and ineffectiveness of the Indian Medical Council. We have had a discussion on that. There is no need of formally having their concurrence etc. We are just introducing the Bill. At this stage, I do not think all these questions should arise.

SHRI PARVATHANENI UPENDRA: What is hurry?

SHRI DIPEN GHOSH: What were the views of the State Governments? Can share these with us?

THE DEPUTY CHAIRMAN: I have allowed you and the Minister has replied. Now let us go on with the thing.

SHRI PARVATHANENI UPENDRA: What is the net result?

THE DEPUTY CHAIRMAN: She is to introduce the Bill.

SHRI P. V. NARASIMHA RAO: The net result is that the Bill is to be introduced.

SHRI LAL K. ADVANI: Why don't you wait, why hurry? In all these matters, if there is opposition, the opinion of the House is taken.

SHRI P. V. NARASIMHA RAO: I would appeal to the Members and I would assure them that there is no transgression intended. The Indian Medical Council has been found to be ineffective, less effective than it should be, and this is a general opinion expressed by all the concerned people in the country. That is why this amendment is being brought. When we go into the detailed aspects, we can certainly discuss all these things.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: For making the Medical Council powerful, you are reducing the powers of the States. It is ridiculous. It is a shame for the Government.

THE DEPUTY CHAIRMAN: Listen. At the time of consideration, you can raise all these questions and the Government will reply.

SHRI P. V. NARASIMHA RAO: Madam, the Indian Medical Council Act is a Central Act. It is an Act of Parliament. So the amendment comes here. *(Interruptions)*

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Madam, I have a small point. This Bill is being introduced at the fag end of the Session. It makes no difference if it is presented on the first day of the next Session. What is the difficulty if in the meantime the Centre takes the States into confidence? When the next Session comes, they can introduce it. Why don't you defer it to the next Session?

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (KUMARI SAROJ KHAPARDE): I move for leave to introduce a Bill further to amend the Indian Medical Council Act, 1956. *(Interruptions)*

SHRI ATAL BIHARI VAJPAYEE: On a point of order, Madam.

यह बिल को इण्ट्रोडयूस करने के बारे में आपत्ति की गयी है । इसलिए अब आपको सदन की राय लेनी पड़ेगी ।

THE DEPUTY CHAIRMAN: This is the introduction stage. I will have to take the opinion of the House whether it agrees to it or not. That is the procedure. Let her introduce it.

श्री अटल बिहारीवाजपेयी : क्या मंत्री महोदय चाहते हैं कि सदन में इस बात पर विभाजन हो । अगर आज विधेयक को इण्ट्रोड्यूस नहीं किया गया तो क्या हो जायगा . . . (व्यवधान)

KUMARI SAROJ KHAPARDE: I would like to tell the hon. Members that there is nothing in the Bill which is against the Supreme Court judgement. Secondly you have mentioned about the entrance examination Regarding that I would like to say that the power now given to the Indian Medical Council is only to conduct such an all-India examination. There is no mention in the Bill regarding the percentage of reservation of seats. I do not see why this... *(Interruptions)*

SHRI ALADI ARUNA alias V. ARUNACHALAM: That is why I am saying it is against the judgement of the Supreme Court. You are strengthening my argument.

KUMARI SAROJ KHAPARDE: There is nothing against the judgement of the Supreme Court.

SHRI ALADI ARUNA alias V. ARUNACHALAM: The Supreme Court judgement specifies the percentage. You go through the judgement.

KUMARI SAROJ KHAPARDE: When the Bill comes up for discussion, you raise all these points.

THE DEPUTY CHAIRMAN: According to Rule 67, I have permitted you to speak and you have said what all you had to say. Now she is to introduce it and the House will have to give permission for introducing it or not. That is the procedure which has to be followed.

SHRI DIPEN GHOSH: Madam, will the Minister pay heed to the plea of the Opposition *(Interruptions)* Mr. Minister the question is, in any case we are not going to discuss and pass in this session the Bill which you are seeking to introduce today. So, in the interregnum what prevents you to seek the views of the State

[Shri Dipen Ghosh]

Governments and then come to the Council of States for passing the Bill?

SHRI P. V. NARASIMHA RAO: I have already explained to the Members that this Bill was to come in the Budget Session, actually. We find that there is some urgency about it.

SHRI PARVATHANENI UPENDRA: What is the urgency?

SHRI P. V. NARASIMHA RAO: I will explain to the House what the urgency is, when the matter comes up for debate. There is no difficulty about that.

SHRI DIPEN GHOSH: In any case, it has to be postponed to the winter session.

SHRI P. V. NARASIMHA RAO: I do not agree with the view that the Bill cannot be introduced without taking the concurrence of the States. That is not the position... *(Interruptions)*...

SHRI DIPEN GHOSH: That we don't say.

SHRI P. V. NARASIMHA RAO: It is a Central Act and the amendment has to come here. I would like the Members to please appreciate that there is no need, there is no point, in dividing the House on this. Let it be introduced.

SHRI DIPEN GHOSH: You are introducing the Bill at the fag end of the session. What is the urgency? You cannot get it passed in this session. You will have to wait till the winter session.

THE DEPUTY CHAIRMAN: The question is:

> "That leave be granted to introduce a Bill further to amend the Indian Medical Council Act, 1956."

The House devided.

THE DEPUTY CHAIRMAN:

AYES—96
NOES—33

AYES—96

Alva, Shrimati Margaret
Amarjit, Kaur, Shrimati
Amla, Shri Tirath Ram
Arun Singh, Shri
Basumatari, Shri Dharanidhar
Bekal Utsahi, Shri
Bhardwaj, Shri Hansraj
Chatterjee, Prof. (Mrs.) Asima
Chaturvedi, Shri Bhuvnesh
Chowdhary, Ram Sewak
Darbara Singh, Shri
Desai, Shri Jagesh
Deshmukh, Shri Shankarrao Narayanrao
Dhusiya, Shri Sohan Lal
Faguni Ram, Dr.
Fernandes, Shri John F.
Fotedar, Shri Makhan Lal
Ganeshwar Kusum, Shri
Ghan Shyam Singh, Shri
Gupta, Shri Vishwa Bandhu
Hanspal, Shri Harvendra Singh
Hanumanthappa, Shri H.
Islam, Shri Baharul
Jacob, Shri M. M.
Jadhav, Shri Vithalrao Madhavrao
Jamir, Shri S. C.
Jamuda, Shri Durga Prasad
Jani, Shri Jagadish
Jogi, Shri Ajit P. K.
Joshi, Shri Krishna Nand
Joshi, Shrimati Sudha Vijay
Kailashpati, Shrimati
Kakodkar, Shri Purushottam
Kalita, Shri Bhubaneshwar
Khaparde, Miss Saroj
Khatun, Kumari Sayeeda
Kidwai, Dr Mohd. Hashim
Kollur, Shri M. L.
Kulkarni, Shri A. G.
Kushnoor, Shri Veershetty Mogalappa
Kuthiravattom, Shri Thomas
Majhi, Shri Prithibi
Malik, Shri Mukhtiar Singh
Malik, Shri Satya Pal
Manhar, Shri Bhagatram

Mehta, Shri Chimanbhai
Mirza Irshadbaig, Shri
Mishra, Shri Mahendra Mohan
Mishra, Shri Sheo Kumar
Mohapatra, Shri Basudeb
Nalwa, Shri Hari Singh
Narayanasamy, Shri V.
Natarajan, Shrimati Jayanthi
Pahadia, Shrimati Shanti
Pandey, Shrimati Manorama
Pandey; Dr. Ratnakar
Panicker, Shri K. Vasudeva
Patel, Shri Chhotabhai
Patel, Shri Vithalbhai Motiram
Patil, Shri Dinkarrao Govindrao
Patil, Shrimati Suryakanta Jayawant-Rao
Puglia, Shri Naresh C.
Rai, Shri Kalpnath
Rajagopal, Shri M.
Ramesh Babu, Shri S. B.
Rao, Prof. B. Ramachandra
Ratan Kumari, Shrimati
Rayka, Shri Sagar
Reddy, Shri T. Chandrasekhar
Richharia, Dr. Govind Das
Rohatgi, Shrimati Sushila
Roshan Lal, Shri
Sahu, Shri Rajni Ranjan
Sahu, Shri Santosh Kumar
Saring, Shri Leonard Soloman
Sharma, Shri A. P.
Sharma Shri Satish Kumar
Shiv Shanker, Shri P.
Shukla, Shri Keshavprasad
Siddiqi, Shri Shamim Ahmed
Silvera, Dr. C.
Singh, Shri Bir Bhadra Pratap
Singh, Thakur Kamakhya Prasad
Singh, Shrimati Pratibha
Singh, Shri R. K. Jaichandra
Singh, Shri Vishvjit Prithvijit
Sukhdev Prasad, Shri
Sukul, Shri P. N.
Surender Singh, Shri
Tariang, Shri Jerlie E.
Thakur, Jagatpal Singh
Thakur, Shri Rameshwar
Tiria, Kumari Sushila
Vaduthala., Shri T. K. C.
Valiullah, Shri Raoof
Verma, Shrimati Veena

NOES—33

Advani, Shri Lal K.
Aladi; Aruna, Shri *alias* V. Aruna-chalam
Aurora, Sardar Jagjit Singh
Basu Ray, Shri Sunil
Chakravarty, Shrimati Bijoya
Chatterjee, Shri Nirmal
Chowdhury, Shrimati Renuka
Das Gupta, Shri Gurudas
Ghosh, Shri Dipen
Gurupadaswamy, Shri M. S.
John, Shri Valampuri
Kaldate, Dr Bapu
Kar, Shri Narayan
Lakshmanna, Prof. C.
Mahajan, Shri Pramod
Mahishi, Dr (Shrimati) Sarojini
Maran, Shri Murasoli
Matto, Shri Ghulam Rasool
Mishra, Shri Chaturanan
Mishra, Shri Kailash Pati
Naik, Shri R. S.
Poddar, Dr. R. K.
Prashant, Shri Dharam Chander
Radhakrishna, Shri Puttapaga
Ramanathan, Shri V.
Scindia, Shrimati Vijaya Raje
Sen, Shri Sukomal
Singh, Shri Ram Awadhesh
Upendra, Shri Parvathaneni
Vajpayee, Shri Atal Bihari
Verma, Shri Virendra
Yadav, Shri Jagdambi Prasad

[The Deputy Chairman]

The motion was adopted.

KUMARI SAROJ KHAPARDE: Madam, I introduce the Bill.

THE DEPUTY CHAIRMAN: It has been introduced.

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE NATIONAL SECURITY (AMENDMENT) ORDINANCE, 1987

II. THE NATIONAL SECURITY (AMENDMENT) BILL, 1987

III. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ORDINANCE, 1987

IV. THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) BILL, 1987

THE DEPUTY CHAIRMAN: No we have two Bills and two Resolutions. We are going to discuss them together. First, the Statutory Resolution seeking disapproval of the National Security (Amendment) Ordinance, 1987 and the National Security (Amendment) Bill, 1987. Shri Atal Bihari Vajpayee.

SHRI JASWANT SINGH (Rajasthan): Madam, I am on a point of order. You have stated just now that the two Statutory Resolutions and these two Bills following from the Ordinances are to be discussed together. The Business Advisory Committee.....

THE DEPUTY CHAIRMAN: Go ahead.

SHRI JASWANT SINGH: I am waiting for the disturbances to subside. I cannot draw your attention unless the disturbances subside.

THE DEPUTY CHAIRMAN: I am listening.

SHRI JASWANT SINGH: The point is that in the Business Advisory Committee for these two measures time was allocated separately three hours and two hours respectively for discussion on each subject.

My second point is, Madam, that to lump together a Statutory Resolution on the National Security (Amendment) Ordinance of 1987 and the consequent Amendment Bill and the Terrorist and Disruptive Activities (Prevention) Bill of 1987 along with the Ordinance is not to do justice to either of the subjects also not to do justice to those Members that are expected to participate or to the questions themselves.

Finally, my third objection is that whereas the National Security (Amendment) Bill relates specifically and particularly to the State of Punjab, so far as the subject of Terrorist and Disruptive Activities (Prevention) Ordinance and the second Bill are concerned, it is much more comprehensive, it covers the entire country and its effects are going to be much more profound. Therefore, for the House to discuss all these four measures put together, in one lot is to do injustice to each of them and to each of the Members also. I oppose this violation of a decision taken in the Business Advisory Committee and the specific time that are seperately allotted to them.

THE DEPUTY CHAIRMAN: When this matter came up before the Business Advisory Committee we did not know that both these Bills and Resolutions would come on the same day and, therefore, separate times were allotted. Now, there is a general consensus of opinion. I did consult hon. Members, Shri Atal Bihari Vajpayee. Shri M. S. Gurupadaswamyji and Shri Virendra Vermaji.

SHRI JASWANT SINGH: I have to assert, I am not for a moment...

THE DEPUTY CHAIRMAN: Now, you are not allowing me to speak.